



Alcohol Focus
SCOTLAND

Alcohol Focus Scotland **Licensing Resource Pack**

This pack has been designed for professionals involved in Scotland's licensing system. It sets out how the licensing process in Scotland works and provides resources to support the collection of evidence on local alcohol-related harm, the development of licensing board policy statements, and effective overprovision policies.

Each section and resource is available to print as a separate document online at www.alcohol-focus-scotland.org.uk/resources/

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SECTION 1

Introduction to alcohol licensing in Scotland

Introduction to alcohol licensing in Scotland

Key Points

- Alcohol is a drug that causes a wide range of negative impacts.
- Licensing is a system of granting permits for the sale of alcohol.
- The system works to prevent and reduce alcohol problems by controlling the overall availability of alcohol through the number, type and opening hours of licensed premises, and by regulating the way individual on-trade premises and off-licences do business.
- Licensing boards decide all applications for licences to sell and serve alcohol in their area.



The purpose of licensing is to limit or control activities which, while legitimate and permitted, are considered to have the potential to be harmful or disruptive.

[Air Weapons and Licensing Scotland Bill Policy Memorandum, 2014](#)



What is alcohol licensing?

Licensing is a system of granting permits for the sale of alcohol. Although legally available and widely consumed in Scotland, alcohol is a drug with known toxic, intoxicating and addictive effects. Controlling the supply of alcohol is something that public authorities have done for centuries to reduce the risk of harm to individuals and society from its use.

Licensing regulates:

- who can sell alcohol;
- where it can be sold;
- the conditions of sale;
- the hours and days of sale; and
- the number of premises permitted to sell alcohol.

Licensing boards decide all applications for licences to sell and serve alcohol in their area. Board membership consists of local councillors though it is separate from the local authority itself.

How does the Scottish licensing system work?

The licensing system works to prevent and reduce alcohol problems in two main ways. It carefully controls the overall availability of alcohol through the number, type and opening hours of licensed premises, and it regulates the way individual on-trade premises and off-licences do business.

Background to licensing in Scotland

Historically, the main focus of licensing work has been on regulation of the on-trade to prevent noise, nuisance, and social disorder associated with drinking in pubs. However, there have been several significant changes in recent years, both to the way alcohol is consumed in Scotland and how it is licensed.

Firstly, the way we drink has changed. Today more alcohol is sold in Scotland from off-sales than on-sales and the majority of people do most of their drinking at home. 73% of all alcohol is now sold in off-sales and drunk at home or in other private settings.

Secondly, we now know more about the consequences of drinking alcohol.

Alcohol has a wide range of negative impacts that extend far beyond public drunkenness and anti-social behaviour in the streets. Harmful alcohol use impairs long-term health, has a detrimental effect on family and community life, and damages the productive capacity of the economy.

In 2016, almost three-quarters of alcohol sold in Scotland was sold in supermarkets and off-licences



Alcohol Sales in Scotland 2016, NHS Health Scotland

The Licensing (Scotland) Act 2005, which came into force in September 2009, reflects these changes.

The Licensing (Scotland) Act 2005 significantly altered the licensing system and provided licensing boards with more scope to act in the public interest to restrict the availability of alcohol. The Act established five licensing objectives, including the protection and improvement of public health, as guiding principles on which licensing decisions should be made. These objectives provide a clear purpose for the licensing system.

Licensing (Scotland) Act 2005: Licensing Objectives

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting children and young people from harm
- protecting and improving public health

The 2005 Act introduced a duty on licensing boards to publish a statement of licensing policy setting out what action they will take to promote the licensing objectives. This means that individual licensing decisions should be guided by evidence-based policy. This extends the scope of licensing boards to take action to manage and restrict the supply of alcohol in the public interest.

The 2005 Act also places a duty on licensing boards to assess overprovision of licensed premises in their area and refuse premises licence applications where it considers granting the licence would result in, or add to, overprovision. The inclusion of a duty to assess overprovision recognises that the total number, capacity, licensed hours and type of licensed premises, can exacerbate alcohol problems.

Licensing and economic objectives

Although the licensing regime does not have responsibility for promoting business growth or tourism; in practice, licensing boards will try to manage competing priorities in their assessments and decision-making.

In considering the economic impact of refusing a new premises licence, it is important to test any assumptions about the economic value of an expansion in the licensed trade. It is often not a simple equation between a new premises licence and more local jobs, and nor is there evidence that a vibrant tourism industry depends on an ever-expanding alcohol supply.

Moreover, the financial costs to a local economy from rates of alcohol-related harm can be considerable and should not be overlooked. It is estimated that alcohol-related problems cost Scotland £3.6 billion each year, including direct costs for dealing with alcohol-related crime and health harm as well as indirect costs such as employee absenteeism and reduced productivity.

It is also worth noting that these are largely costs to the public purse, whereas profit from the sale of alcohol is received by private companies. Local alcohol cost profiles are available from Alcohol Focus Scotland's [website](#).

What types of licence are there?

<p>Personal licence</p>	<p>A personal licence allows a person to authorise or supervise the sale of alcohol, and to train staff. Personal licence holders must complete a course and exam, and then apply to the licensing board for their licence. Every premises (except members clubs) must have at least one personal licence holder – the premises manager – but in practice most premises have several.</p>
<p>Premises licence</p>	<p>For a place to be allowed to sell alcohol, it must have a premises or occasional licence, or be an exempt premises. A premises licence allows alcohol to be sold. Any premises selling alcohol, whether on-sale or off-sale, must have a premises licence. A premises licence is granted by the licensing board of the area where the premises is situated.</p>
<p>Provisional licence</p>	<p>A provisional licence will allow a business to be granted a premises licence once the premises are built or converted. It lasts for up to four years. It is counted for the purposes of overprovision, even though the premises is not trading.</p>
<p>Occasional licence</p>	<p>If a premises is not licensed but wishes to sell alcohol for a particular event, an application can be made to the licensing board for an occasional licence. Similar national mandatory conditions to those applying to premises licences also apply to occasional licences.</p>

Who's who in Scottish licensing?

Stakeholder	Role
Licensing Board	A licensing board is the decision-making body on licensing matters. The board is responsible for developing the licensing policy statement and deciding on individual applications for premises and other types of licences. Though its membership consists of between 5 and 10 local councillors, the board is separate from the local authority.
Clerk	The clerk of the board provides legal advice to the licensing board. They are employed by the council and are legally qualified.
Local Licensing Forums	The local licensing forum reviews or scrutinises the operation of the Licensing (Scotland) Act 2005 in its area and gives advice and makes recommendations to the licensing board. The licensing board must have regard to this advice and recommendations. The forum cannot comment on individual cases or applications. There are between 5 and 21 members of each forum. Membership must include at least one Licensing Standards Officer for the area and a representative from the health board. Other members commonly include licence holders; police; health, education or social work representatives; young people; and residents.
Licensing Standards Officers (LSOs)	LSOs are responsible for providing guidance and information to licensing stakeholders; ensuring compliance by licence holders; and providing a mediation service for the purpose of avoiding or resolving disputes. LSOs can also apply to licensing boards for a review of any licence where there has been a failure to comply with a the conditions of their licence. They have powers to enter and inspect premises to ensure compliance with the law and board policy. The local licensing forum must include at least one LSO.
Health Board	The health board must be sent all applications for new premises licences and licence variations and has the right to object to applications. The health board must provide the licensing board with information for the statement of licensing policy and the licensing board must consult them when developing its overprovision policy. Licensing forum membership must include a representative of the health board.
Police	The police are sent all applications for new licences and licence variations, and have the right to object to applications. They enforce the law, have the power of entry to licensed premises and authorise test purchasing of alcohol. If the police have concerns about a licensed premises or a personal licence holder, they can ask the licensing board to review the licence. The police must provide the licensing board with information for the statement of licensing policy and the licensing board must consult the police when developing its overprovision policy.
Community Councils	Community councils must be notified of new licence applications and applications for major variations in their local area. The licensing board will often seek their views during the development of the statement of licensing policy. Representatives from community councils are often members of local licensing forums.

Alcohol and Drug Partnerships (ADPs)	<p>An ADP includes members of the local health board, local authority, police, prison service and voluntary sector. ADPs are responsible for drawing up joint strategies for tackling alcohol and drug use in their communities.</p>
Community Planning Partnerships (CPPs)	<p>CPPs are hosted by the local authority and are made up of representatives from health, police, education, fire, councillors and sometimes council departments. A CPP coordinates services for a particular area.</p>
Community Safety Partnerships (CSPs)	<p>CSPs are local authority-led partnerships that bring together representatives from the local authority, police service and fire and rescue services. Health, education and other public sector interests may also be represented. CSPs work to reduce anti-social behaviour and fear of crime and to promote safer, more inclusive and healthier communities.</p>
Integration Joint Boards (IJBs)	<p>IJBs are partnerships accountable to the health board and local authority, and includes voluntary sector and independent sector organisations. They plans the local delivery of integrated health and social care services.</p>

What does a licensing board do day-to-day?

Meetings: A licensing board will meet regularly – how often will depend on the amount of business they have. Meetings are normally advertised on the council's website. Licensing boards must meet in public, so anyone can attend a meeting to observe.

Applications for new premises: The licensing board must meet to decide on an application for a new premises licence. Whilst only certain people must be notified of the application - police, health board, neighbours, community council, council and the fire authority - any person can object or make representations on specified grounds.

Variations of existing premises licences: A premises licence lasts indefinitely unless revoked, suspended or varied. Some variations, such as increasing capacity or longer hours, must be heard by the board and the same notification and rights of objection apply as with a new licence application. A licensing board can also delegate certain functions for dealing with variations to a single member or sub-committee of the licensing board, or to the clerk or other licensing staff. Delegated functions include granting personal and occasional licences where there are no objections.

Review of a premises licence: The police, the Licensing Standards Officer (LSO), the licensing board and any person can apply for a review of a premises licence. There are specified grounds for a review, including any grounds relevant to one or more of the five objectives. If the licensing board decides there are grounds for a review, they must hold a hearing. If the review is upheld, the board has the option of issuing a written warning, varying the licence, suspending the licence or revoking it.

Review of a personal licence: Licensing boards are required to review personal licences if: they receive confirmation that the personal licence holder has a relevant conviction; the police report behavior inconsistent with the licensing objectives; they are reviewing a premises licence; or a personal licence holder has three endorsements on their licence. At a review hearing the board can now also consider whether the licence holder is a fit and proper person. Where the board is satisfied the person is not a fit and proper person, they must revoke the licence.



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SECTION 2

Using evidence to support policy and decision-making

Using evidence to support policy and decision-making

Key Points

- Evidence underpins effective licensing practice.
- Evidence is necessary to promote the licensing objectives.
- Without sufficient evidence, it will be difficult for a licensing board to meet its legal duty to seek to promote the licensing objectives.
- There are many sources of evidence available relevant to each of the licensing objectives.
- Local agencies can assist licensing boards to collect and analyse evidence.
- In seeking to promote the licensing objectives, licensing boards must take account of the relationship between overall alcohol availability and harm, as well as the operating conditions of individual premises.

Why is evidence necessary to licensing?

Licensing boards administer the licensing system in local authority areas and must seek to promote the licensing objectives through this work.

Licensing (Scotland) Act 2005: Licensing Objectives

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting children and young people from harm
- protecting and improving public health

Promotion of the licensing objectives begins with evidence collection and analysis. Boards must have sufficient evidence on each of the licensing objectives to be able to consider and apply the most appropriate measures to achieve the objectives. Licensing boards should also use evidence to assess the ongoing effectiveness of their policy and practice in meeting the licensing objectives.

What can be used as evidence?

Many different sources of evidence can be used to inform licensing policy and practice. Local agencies, such as Alcohol and Drugs Partnerships (ADPs), health boards and the police can help licensing boards to collect and analyse evidence.

- ***Experience and knowledge of licensing board members***

Licensing board members may have extensive knowledge of licensing matters in their area. Such personal experience can count as evidence in policy and decision-making. This local knowledge would be strengthened by relevant evidence and statistics.

- ***Views and experiences of people resident within the board's area***

People living in the local area will have first-hand experience of how licensed premises operate in practice and how the availability of alcohol affects the community on a day-to-day basis.

Individuals in treatment services, people within recovery communities and families caring for an alcohol-dependent member, can offer useful insights into how the accessibility and availability of alcohol in a local area has affected them.

- ***Published alcohol data***

A range of alcohol statistics are centrally collated and published, including crime, health, emergency services, alcohol consumption, the costs of alcohol harm, and sales data. This information gives an indication of the extent and magnitude of alcohol problems, as well as trends over time.

- ***Information from local agencies on request***

Some alcohol-related statistics are collected locally, but not always published. However, these may be available on request, such as local police, social work, ambulance, and fire service statistics.

- ***Research commissioned by licensing boards or local agencies***

Research commissioned by local agencies can be used to inform licensing policy and practice.

- ***Qualitative information/evidence***

Local agencies and organisations can be invited to testify on the impact of alcohol problems and alcohol availability in local communities.

How can different levels of evidence be used?

Alcohol statistics and information are available at different geographical levels, from Scotland-wide, to data zones made up of 500 to 1000 household residents.

Not all alcohol statistics can be provided at every geographical level. For example, some statistics are not reliable if reported at small area levels, such as a data zone, or below that, at a postcode level. In some instances, it may also not be possible to provide statistics at a very local level if the data provided could be identifiable due to the small numbers involved. What this means for licensing boards is that in order to promote the licensing objectives they must use the evidence that is available, at the level at which it is available, within their area.

All levels of information can be used to build an alcohol profile for a local area.

National and regional level			
Health Boards	Police Scotland	Fire and Rescue Service	Scottish Government

Scotland-wide information is key to understanding the wider context the licensing board operates within. It can be used by boards if inference can be drawn at a local level. For example, national sales data shows that off-sales account for 73% of the volume of pure alcohol sold in Scotland. This is consistent with licensing board statistics showing an increase in off-sales capacity and local survey data showing most people do most of their drinking at home. It is therefore reasonable to infer that national alcohol sales figures are likely to reflect the situation at local level.

Evidence from bodies such as health boards will help to build up a regional picture of alcohol consumption and harm.

Licensing board level			
Alcohol & Drug Partnership (ADP)	Community Safety Partnership (CSP)	Local Authority	Community Planning Partnership (CPP)

Most licensing boards operate across a local authority area, as do a number of health, police, local authority and community partnerships. Many sources of evidence relevant to the promotion of the licensing objectives are available at this level. [Resource 1](#) in Section 5 sets out a summary of published evidence available and boards should also consult with local partners to find out what is available locally as local bodies collect their own data.

Neighbourhood level			
Data zone 500-1000 household residents	Intermediate data zone On average 4000 household residents	Council ward Data zones can be built up to match council wards	Locality Data zones can be used to provide information at locality level

Data zones are the smallest level at which data is available in Scotland. These small zones include between 500 – 1000 household residents in their area and can be built up into larger areas such as towns, villages, communities or the whole board area. By requesting data at this level from partners such as the local ADP and the local authority, boards can build up a picture of alcohol harm in particular communities.

How do you build a local alcohol profile?

A local alcohol profile collating data from across the licensing board area can play an important role in informing the development of policy statements and overprovision assessments. If a profile is updated on an ongoing basis, it can also provide the information necessary to evaluate the effectiveness of a current policy and highlight areas that may require additional action in the form of a supplementary statement.

Case study: Scottish Borders Alcohol Profile

The Scottish Borders annual alcohol profile is used to inform licensing board policy and is compiled by the Local Licensing Forum. It presents information available at national level as well as local data from Police Scotland, NHS Borders, Scottish Borders Council and Scottish Fire & Rescue Service.

The profile also includes information from the Scottish Borders Household Survey through which communities were asked about the number of places where they buy alcohol in their local area and their opinions on alcohol sales in their area.

Developing the profile also highlighted gaps in the data available locally. Borders ADP has worked with NHS Borders to establish data collection from the A&E department on alcohol being a contributory factor to presentations at A&E.

1 Plan ahead.

Building a local alcohol profile is a substantial piece of work so ensuring sufficient time is allocated to this task in the process of developing new licensing policy statements is vital. For those external to the board, it is also a good idea to contact the local board to discuss the timescales they are working to and what information they will be looking for in advance of beginning work to ensure agreement and shared understanding of how the process will work.

2 Find the evidence.

Alcohol statistics and indicators are available relating to each of the licensing objectives. Some statistics will support evidence for several licensing objectives (for example, indicators of alcohol-related violent crime are relevant for the crime, public health and public safety objectives). Contacting local agencies that can help find and collate relevant information and statistics will help with this. The Alcohol & Drugs Partnership, which brings together police, health board and voluntary sector representatives, is a good place to start.

- **[Resource 1](#) in Section 5 provides a table of information sources available and where to find them.**
- A contact list of licensing stakeholders in Scotland is available on the [Alcohol Focus Scotland website](#).

3 Put the evidence into context.

Evidence can be put into context by comparing different localities and considering the situation over a period of time. Benchmarking helps to identify areas for improvement.

- **Comparing different areas**
Comparing indicators of alcohol harm across different areas helps to make sense of the situation in an area. Localities with worse indicators than other areas suggest there is room for improvement and plenty of scope for remedial action. Some alcohol statistics allow for comparisons to be made between smaller localities within a local authority area.

3	<p>Many more alcohol indicators can be compared across local authority areas, as well as to the Scottish average. However, as levels of alcohol harm in Scotland are higher than elsewhere in Europe, it should be noted that the Scottish average is itself not an aspirational standard.</p> <ul style="list-style-type: none"> Monitoring trends over time Observing what is happening to a range of alcohol indicators over time allows for an assessment of whether a local picture is improving or deteriorating. Deciding what level of harm is acceptable Alcohol is a harmful substance. Public authorities charged with controlling the supply of alcohol need to consider measures that can be applied to keep the risks of alcohol harm - to individuals and society - to a minimum. High levels of harm compared to previous years, or in comparison with other areas, indicate that more might be done to minimise risk.
4	<p>Apply the evidence to licensing policy.</p> <p>Once evidence has been gathered and a local picture produced, licensing boards must next consider how local licensing practice can be best applied, or modified if necessary, to promote the licensing objectives.</p> <ul style="list-style-type: none"> Resource 4 in Section 5 gives examples of policy action available to boards

What does the evidence show about action to reduce alcohol problems?

The licensing system works to prevent and reduce alcohol problems in two main ways. Firstly by carefully controlling the overall availability of alcohol through the number, type and opening hours of licensed premises, and secondly by regulating the way individual on-trade premises and off-licences do business.

Evidence, including the experience of licensing boards, shows that applying conditions to how individual licensed premises operate can work in reducing certain types of alcohol problems. Evidence also shows the general availability of alcohol in an area can have an impact on a range of alcohol-related harms independent of the way premises are managed.

It is easier to observe in routine, day-to-day licensing work how the operating conditions of individual licensed premises can impact on alcohol problems. It is less easy to see the relationship between overall availability and alcohol problems. It is therefore important to ensure that the evidence linking overall alcohol availability and alcohol-related harm is not overlooked.

Over 50 research studies published since 2000 find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries. Greater access to alcohol is associated with a range of alcohol harms, including: violence, traffic accidents, hospital admissions, mortality, self-reported injuries and suicide, sexually-transmitted disease and child abuse or neglect. These problems are relevant to all of the licensing objectives.

Resource 2 in Section 5 provides a summary of the evidence on alcohol harm and availability.



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SECTION 3

Statements of licensing policy

Statements of licensing policy

Key Points

- A policy is a principle or course of action designed to achieve an objective.
- Policy provides a framework for decisions, helping to ensure coherence and consistency in day-to-day decision-making.
- Licensing law requires licensing boards to publish a statement of their licensing policy within 18 months following local government elections.
- The policy statement must seek to promote the licensing objectives. It should describe the steps a licensing board will take to achieve the licensing objectives in its area.
- The use of policy allows licensing boards to address a range of issues, including problems relating to overprovision of licensed premises.
- Formulating licensing policy enables a licensing board to think ahead and take a more proactive approach to shaping the licensed environment in its area in a way that prevents harm.
- Consulting on a draft policy statement gives local residents a chance to have their say on the approach to alcohol licensing in their community.

What is a statement of licensing policy?

A statement of licensing policy is published by a licensing board. The statement describes the policy measures a licensing board will implement to promote the licensing objectives in its area.

Licensing law, statutory guidance and regulations set out the broad legal framework for alcohol licensing. Some rules and conditions, such as the legal alcohol purchase age, are mandatory. However, the law gives licensing boards considerable discretionary power on a range of actions to reduce the risk of harm to individuals and communities from the sale of alcohol. Policies can be formulated to restrict the overall supply of alcohol and to regulate the way individual licensed premises operate.

A licensing board must ensure that its policy seeks to promote the licensing objectives. Specific policy measures can work to promote one or more of the licensing objectives. Policy statements must also include a statement on overprovision of licensed premises within the board area. A licensing board must have regard to the content of its policy statement when making licensing decisions.

How can policy inform licensing decisions?

The legal requirement to publish a policy statement

The duty to publish a statement of licensing policy was introduced by the Licensing (Scotland) Act 2005. It is now a legal requirement that all licensing boards publish policy statements within 18 months following local government elections. Once published, policies should be kept under review and a supplementary statement can be issued at any time.

The law and the courts make it clear that a licensing board - as an administrative body - can adopt and apply policy to determine administrative decisions. The Licensing (Scotland) Act 2005 makes licensing a policy-based process. Licensing boards must have regard to their policy statement when exercising their functions under the Act. The policy statement, which is made publicly available, guides the licensing board's general approach to individual licence applications. The policy statement should therefore inform all day-to-day decision-making, including licence applications.

“Where a statutory body having discretionary power is required to consider numerous applications there is no objection to it announcing that it proposes to follow a certain general policy in examining such applications. Indeed, in certain circumstances it may be desirable to achieve a degree of consistency in dealing with applications of a similar character. Moreover, there is nothing wrong with policies being made public so that applicants may know what to expect.”

Elder v Ross & Cromarty DLB 1990 SLT 307

A licensing board has a regulatory function and is established to achieve specific outcomes. It is not a court of law where a judge decides between competing parties solely on the basis of the evidence presented; a licensing board must be active in the process of promoting the licensing objectives.

Although it makes decisions within a legislative framework, a licensing board has discretion as to how it exercises its duties. It can carry out its own investigations and gather its own evidence, and it can apply its own local knowledge when deciding on an application.

Each application has to be determined on the facts and issues before the licensing board and is considered in the context of the policy. At a hearing, unless the board decides that there is a convincing case for an application to be considered an exception, it should make its decision in line with its policy.

A licensing board can take into account a wide range of information when making its decisions on licence applications. However, the law states that it must not rely on any undisclosed material. The policy statement can help to make a licensing board's reasoning and decision-making more transparent and legally robust.

Applying policy in practice

The Act requires both the licensing board's policy statement and decision-making on licence applications to promote the licensing objectives. Being contrary to a board's policy is not an explicit ground for refusal for a new premises licence or major variation of an existing premises licence but inconsistency with one of the five licensing objectives is. As the policy statement must seek to promote the licensing objectives, an application found to be contrary to the licensing board's policy can accordingly be shown to be inconsistent with promotion of the licensing objectives.

For example, if a licensing board's policy statement has adopted a position on licensed hours and an applicant seeks an extension in licensed hours beyond what is indicated in the statement, the application can be refused by reference to the board's policy. The ground for refusal would be that the application is inconsistent with one or more of the licensing objectives.

What are the benefits of using policy in alcohol licensing?

A policy is a principle or course of action designed to achieve an objective. The use of policy in licensing enables licensing boards to more effectively promote the licensing objectives.

- **A more proactive licensing system**

Much of the day-to-day business of licensing boards consists of processing individual applications and reviewing licences. Preparing a statement of licensing policy provides licensing boards with the opportunity to stand back from routine administrative practice and consider the bigger picture in relation to licensing in their area. Patterns and trends in alcohol harm can be examined with remedial and preventative licensing action identified. The requirement to prepare, publish and use a policy statement shifts licensing from being a reactive, application-driven process, to one that is forward-looking and policy-led. This is important because the licensing system is primarily a mechanism to prevent harm. Licensing policy should be reviewed and updated regularly to ensure it remains relevant and achieves its purpose.

- **The ability to address a wider range of issues**

Many alcohol-related health, crime and social problems are influenced by the general availability of alcohol in society and how easy alcohol is to obtain. However, it is difficult to tackle issues associated with an increase in the overall availability of alcohol on an ad hoc, case-by-case basis. Imposing conditions on individual operators is not on its own a solution to problems arising from having too many licensed premises. The policy statement enables a licensing board to take a strategic approach to managing provision in its area. Policies can be adopted to restrict the number, type, capacity or trading hours of licensed premises for the purpose of reducing or preventing alcohol harm. As the policy statement informs individual decisions, it ensures that the licensing system can address the full spectrum of problems related to alcohol availability.

- **Greater transparency and improved standards of decision-making**

Using a published policy statement to guide licensing practice supports consistent and well-reasoned decision-making. It makes the licensing process more transparent. Decisions made in line with an evidence-based statement of licensing policy are more likely to withstand legal challenge.

- **Opportunity for wider community engagement**

Licensing practice impacts on everyday life. Preparing and consulting on a draft policy statement gives local people an opportunity to have their say in shaping the local licensing environment.

Alcohol Focus Scotland's Community Toolkit is designed to help anyone who would like to have a say on how alcohol impacts on their community and is available [here](#).

“I recognise that the scheme of the Licensing (Scotland) Act 2005 is quite different from the previous legislation. The focus on the licensing objectives and the formulation of a board’s policy is integral to the system.”

Buzzworks Leisure Ltd v South Ayrshire Licensing Board 2012 SLT 442

What is the process for developing a policy statement?

Developing a new statement of licensing policy is a substantial task. The licensing board has the responsibility to prepare the policy statement, but the local licensing forum and local agencies, such as the Alcohol and Drug Partnership (ADP), the local authority and local planning and safety partnerships, may be able to provide assistance. ADPs for example, bring together local police, health board and voluntary sector representatives. They are likely to have access to relevant data and know the local picture.

Statutory guidance also recommends that licensing boards provide a clear indication of how their policy statement relates to other local strategies, such as community safety and crime prevention, as well as the national alcohol strategy. A suggested process for developing a statement is set out below.

1. Gather and consider the evidence

Evidence gathering is the first step in the preparation of a new licensing policy statement. The licensing policy statement must seek to promote the licensing objectives and must include an assessment of overprovision of licensed premises in the local area. Without gathering sufficient information on each of the licensing objectives, it will be difficult for a licensing board to ensure that its licensing policy serves to promote them.

2. Undertake an assessment of overprovision

See [Section 4](#) of this resource for information on how to do this.

3. Translate the evidence into policy action

Policy positions should be developed to promote the licensing objectives based on the evidence. If the evidence indicates high levels of alcohol harm compared to the past, or in comparison with other areas, the licensing board should consider what licensing measures can be introduced or modified to reduce and/or mitigate the risk of alcohol harm escalating in the future. Specific measures can be adopted as a general policy, or in relation to particular categories of decisions.

4. Consult on the draft statement of licensing policy

A licensing board is required by law to consult with the local licensing forum and health board when developing its statement of licensing policy. However, licensing boards are encouraged to consult more widely with people and agencies that could have relevant evidence. Local licensing policy shapes the environment in which people live so it is particularly important for local residents and the community to have the opportunity to contribute to the formulation of licensing policy. The views of stakeholders should be given appropriate weight when the policy is determined and it is good practice for boards to demonstrate how the feedback received informed the development of the policy statement.

5. Keep the policy under review and evaluate effectiveness

Indicators of success should be identified when formulating a new statement of licensing policy. The policy should be kept under review to assess effectiveness in meeting these targets and objectives. Evaluation of existing policy – identifying what action has worked well and areas for improvement – should form part of the process of formulating a new policy statement or supplementary policy statement. A supplementary policy statement can be produced if evaluation highlights issues with the current policy statement.

What should a licensing policy statement include?

Licensing legislation and the accompanying statutory guidance provide minimal direction on what a licensing policy statement should contain. The detail of what should be included is left to the licensing board to decide. The overarching legal requirement is that a licensing board must ensure its policy seeks to promote the licensing objectives.

There are a range of policy measures that can be implemented to achieve the licensing objectives. Licensing works to reduce alcohol harm by controlling the number, type, capacity and opening hours of licensed premises, and by imposing conditions on how individual licensed premises operate. Licensing boards have the power to apply both these types of intervention.

Measures to regulate the overall availability of alcohol are best addressed through the policy statement, where a robust and strategic approach to managing provision can be laid out. Measures to regulate the operating conditions of licensed premises can be implemented on a case-by-case basis. However, if a measure has wide applicability, then it can be adopted as a general policy.

- [Resource 4](#) in [Section 5](#) provides a template policy statement.

Licensing board policies must relate to the sale of alcohol

Licensing board policies must be connected to the sale of alcohol. The public health licensing objective does not give a licensing board the power to promote public health generally, but only in relation to the sale of alcohol.

For example, a licensing board cannot impose a rule preventing licensed premises from selling unhealthy food as this measure does not relate to the sale and consumption of alcohol. However, a requirement for licensed premises to serve alcohol only with food on pavement terraces can be demonstrated to be related to both the sale and consumption of alcohol and to the promotion of the licensing objectives.

Drinking alcohol on an empty stomach raises the risk of intoxication. Intoxication is related to a range of problems including alcohol poisoning, violence, public disorder and rowdiness. A full stomach slows down the rate of absorption of alcohol into the bloodstream and lowers the risk of intoxication, thus promoting the licensing objectives of preventing public nuisance and protecting health.

What happens if a policy statement needs updating?

A licensing board must keep its policy statement under review while it is in force. If it finds that the policy measures included in its statement are not achieving the licensing objectives, or circumstances change or new evidence emerges, then a licensing board can issue a supplementary policy statement. Supplementary statements enable a licensing board to modify licensing practice when necessary instead of waiting until the next round of local government elections. As with the full policy statement, boards must undertake consultation on any supplementary statements.



Alcohol Focus
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SECTION 4

Developing an effective overprovision policy

Developing an effective overprovision policy

Key Points

- Overprovision is where there are problems linked to the number and type of licensed premises.
- Scottish licensing law requires licensing boards to assess the extent to which they consider there is overprovision of licensed premises, or licensed premises of a particular type, in their area.
- A statement on overprovision must be included in the statement of licensing policy.
- Though each application still must be determined on its own merits, overprovision policies can create a rebuttable presumption against the granting of a relevant application in an area deemed overprovided by the board.
- Decisions on overprovision should be informed by evidence from the police, health authorities and other agencies.
- Boards have the flexibility to decide the approach they take to addressing overprovision in their area and can focus on only those factors that cause them concern in the light of the evidence.
- An association between the number of alcohol outlets and a wide range of alcohol-related harm has been found in over 50 separate studies published since 2000.
- By carefully controlling the overall availability of alcohol, an effective overprovision policy can help to prevent and reduce alcohol problems, enhancing community life, improving health and well-being, and boosting local productivity and economic performance.

What is overprovision?

Overprovision is where there are problems linked to the number and type of premises in an area. Scottish licensing law requires licensing boards to assess the extent to which they consider there is overprovision of licensed premises, or licensed premises of a particular type, in their area. A statement on overprovision must be included in the statement of licensing policy.

In considering whether there is overprovision, the board must take into account:

- the number of premises in the locality (Members' clubs are not included in the assessment of overprovision)
- the capacity of licensed premises in the locality

The board may also have regard to other matters it thinks fit, including in particular:

- the licensed hours of licensed premises

Overprovision of one or more of these factors can be considered for one or more localities in a board's area as well as for the entire board area. Boards have the flexibility to decide the approach they take to addressing overprovision in their area and can focus on only those factors that cause them concern in the light of the evidence. A licensing board must refuse applications for new premises licences or extensions in capacity in areas where it judges that the granting of an additional licence or extended capacity could result in overprovision of licensed premises.

A board's overprovision policy only applies to prospective premises licences. It is not possible under current legislation to retrospectively revoke premises licences that have been granted on the grounds of overprovision. However, the law enables licensing boards to prevent further expansion in the supply of alcohol in areas that are considered well-provided for and at risk of becoming overprovided.

Why is assessing overprovision of licensed premises important?

In the absence of a licensing regime, the number and type of outlets selling alcohol would be decided by the market forces of supply and demand. In a market economy, the opening of new premises could be taken as an indication of consumer demand, or if there was no demand a business would fail.

However, there are good reasons why society does not rely on the market alone to control the availability of alcohol:

- Firstly, alcohol is not an ordinary commodity. It is a drug that causes a wide range of negative impacts.
- Secondly, overconsumption of alcohol in the short-and long-term imposes substantial health, social and financial costs - not only for the drinker, but for families, friends and communities, including many people who do not drink.
- Thirdly, evidence repeatedly shows that controlling the overall availability of alcohol can help to prevent and reduce alcohol harm.

The purpose of the licensing system in Scotland is to regulate the retail provision of alcohol in such a way as to mitigate the risks of harm to individuals and society from its use. The market still operates in relation to whether a business case for a new alcohol outlet is established. The job of a licensing board is to decide whether any proposed further expansion in the supply of alcohol, through additional licensed premises, capacity or hours is compatible and consistent with the licensing objectives and the wider public interest.

What difference does one more make?

What the evidence tells us about the relationship between the number of licensed premises and alcohol harm

In the development of licensing law and practice over two centuries, public authorities have long observed a link between the number of licensed premises in an area, sometimes referred to as outlet density, and alcohol harm. The power to restrict the total number of premises selling alcohol has been a component of Scottish licensing legislation for over 30 years.

The scientific study of the relationship between outlet density and alcohol harm, however, has a much more recent history. Advanced research techniques and improved data availability now allow for more detailed examination of the aggregate effect of licensed premises on drinking patterns and levels and types of alcohol-related harm.

Since 2000, over 50 separate studies in countries with mature alcohol markets, including Scotland and England, have demonstrated a significant association between outlet density and a range of alcohol problems, including: violence, hospital admissions, risky and underage drinking, alcohol-related traffic accidents, sexually-transmitted disease, and child abuse or neglect.

At the national level, 2014 research by the Centre for Research on Environment, Society and Health (CRESH) found that alcohol-related deaths in Scottish neighbourhoods with the most alcohol outlets were more than double those in neighbourhoods with the fewest. Similarly, neighbourhoods with the most alcohol outlets had significantly higher rates of alcohol-related hospitalisation.

Conversely, accumulated evidence strongly indicates that careful control of the overall availability of alcohol can make a key contribution to a range of strategies aimed at reducing crime, poverty, health inequalities, and to enhancing quality of life.

[Resource 2](#) in Section 5 sets out evidence on the impact of overall alcohol availability on alcohol problems.

Applying research findings in a local context

Research on the impact of outlet density on alcohol harm in one area can be used to inform policies in other areas. Just as the results from randomised control trials are generalised to larger populations, the findings of social research can be applied in different areas that share similar characteristics. Research carried out in Glasgow demonstrating a relationship between number of alcohol outlets and crime can be used to guide policy development in Edinburgh, South Ayrshire, or any other local authority area in Scotland. There are differences in the degree of alcohol-related harm in different areas, but the relationship between alcohol consumption and harm still holds across the country. It is reasonable to infer that the relationship between affordability, availability and consumption of alcohol also holds, unless there is evidence explaining why the research would not apply in a particular area.

How is the difference between provision and overprovision judged?

The level of provision that constitutes overprovision is for a licensing board to decide. Licensing law outlines the factors that are to be considered, rather than stipulating how overprovision is to be determined, or the number of licensed premises that amounts to overprovision.

The difference between provision and overprovision is a value judgement

There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community.

Alcohol is a risky substance, with intoxicating, toxic and addictive effects, including chronic health harms and a wide range of social problems. Harm can occur at relatively low levels of use, for example, drink driving. Despite these risks, alcohol is a legal product. Society seeks to manage and minimise the risks from alcohol by controlling its supply through the licensing regime. However, because evidence demonstrates a relationship between outlet density and alcohol problems, with increased levels of harm associated with greater availability, then as long as alcohol is supplied, risk cannot be eliminated. The threshold between provision and overprovision at the local level is therefore a matter of discretion.

Decisions on overprovision can and should be informed by evidence from the police, health authorities and other agencies. Ultimately, however, the question of whether a certain number of premises constitute overprovision is a value judgement for licensing boards to make. Evidence can indicate the degree of harm associated with increasing the supply of alcohol, but only society can decide on the level of harm that is acceptable. A licensing board is empowered, through legislation and the democratic process, to act in the interests of the local community.

Overprovision and inconsistency with the licensing objectives are separate grounds for refusing a premises licence

Overprovision can be assessed and measured in relation to the licensing objectives, but overprovision and inconsistency with the licensing objectives are separate reasons for refusing a new premises licence or applications for major variations.

A statement on overprovision is included in the statement of licensing policy. As the policy statement must seek to promote the licensing objectives, it follows that the overprovision sections of the policy statement must also serve to promote the licensing objectives. However, under section 23 of the Licensing (Scotland) Act 2005, which deals with premises licence applications, inconsistency with the licensing objectives and overprovision are two separate grounds for refusal. The legislation states that if any of the grounds for refusal apply then the application must be refused.

In 2010, a Sheriff Court ruled that a licensing board had erred by refusing a new premises licence on the grounds of overprovision, because it had not also demonstrated that the application was inconsistent with one or more of the licensing objectives (*Tesco Stores Ltd v Aberdeen City Licensing Board*, 2010). Essentially, it was held that overprovision can only be assessed and judged in terms of the licensing objectives. However, two subsequent court rulings have found this interpretation of the law to be incorrect (*Buzzworks Leisure Ltd v South Ayrshire Licensing Board*, 2012, and *Tesco Stores Ltd v City of Glasgow Licensing Board*, 2012).

Therefore, whilst it is acknowledged there is likely to be a degree of overlap between the different grounds for refusal, there is nothing in the legislation to indicate that any of the grounds must be applied together. This means that boards can determine that there is overprovision without relating this to the licensing objectives.

What is the process for preparing an overprovision statement?

Although a licensing board exercises discretion and judgement in the performance of its duties, overprovision assessments and decisions must nevertheless demonstrate a factual basis and be deemed reasonable and proportionate to achieving the objectives of licensing. Taking a systematic approach to the preparation of an overprovision statement will help to ensure well-reasoned and robust licensing decision-making.

Before beginning...gather and consider the evidence

An overprovision statement formulated on the best available evidence is more likely to be effective in managing and reducing alcohol harm and is more likely to withstand legal challenge.

Section 1 of this toolkit sets out how boards should use evidence to support policy and decision-making.

The standard of evidence that applies in overprovision decisions is that of probability and likelihood. Licensing law dictates that a licensing board must refuse applications for new premises licences or extensions in capacity in areas where it judges that the granting of an additional licence or extended capacity would result in overprovision of licensed premises. A decision to refuse such applications is therefore anticipatory.

The licensing system is primarily a mechanism to prevent harm and a licensing board will often need to act in advance of problems developing. **In seeking to effect a positive change or outcome, a licensing board has to proceed on the basis of what is likely, probable or reasonable based on the evidence.** This is the appropriate standard of evidence for licensing decisions and is the test that has been applied by the courts to date.

Though boards have flexibility in deciding how to address overprovision in their area, boards must follow the process set out in the [guidance](#) to the Licensing Act (Scotland) 2005 when assessing overprovision. The following table sets out this process.

1. Select appropriate localities based on a broad understanding of provision across the board's area

By law, the localities or geographical areas that a licensing board uses to assess overprovision are a matter for the board to decide (see *Aldi Stores Ltd v Dundee City Licensing Board*, 2016).

In the past, the majority of licensing boards have tended to apply an overprovision assessment to relatively small areas, which is in keeping with a traditional approach to licensing that focused on town centre disorder and on-licence premises. However, the Air Weapons and Licensing (Scotland) Act 2015, clarified that the whole of a board's area can be treated as a locality.

Alcohol consumption and purchasing patterns have changed dramatically over the past few decades. 73% of pure alcohol sold in Scotland is now bought from off-sales premises and people travel further to buy alcohol. Therefore, using only small localities for the purpose of assessing overprovision may not be the most appropriate approach for all licensed premises, or for all of the licensing objectives.

Alcohol-related public nuisance and social disorder issues may often be localised to relatively small areas. However, the relationship between outlet density and health harm, as well as certain crimes, is demonstrated over larger geographical areas. Moreover, important indicators of alcohol-related harm relevant to the promotion of the licensing objectives are only available over larger areas.

If licensing policy must seek to promote the licensing objectives, and if indicators of the licensing objectives can only be demonstrated over a larger geographical area, then it is arguable that a licensing board should assess overprovision over the larger area to fully promote these objectives.

Different-sized localities can be used to assess overprovision in relation to different types of licensed premises and different alcohol harm. The area for assessing overprovision in terms of promoting and protecting public health, for example, is likely to be bigger than the area for addressing issues of public nuisance and social disorder, which could conceivably be confined to several streets within a town centre.

Licensing boards should define areas for assessing overprovision that are appropriate for the objectives they are trying to promote and for which statistics and evidence are available.

2. Identify the number of licensed premises or premises of a particular description in those localities and their capacities

In determining a premises licence application, and whether overprovision applies, the law directs licensing boards to have regard to licensed premises, or licensed premises of the same or similar description, in a locality. Licensing boards can therefore, for the purposes of assessing overprovision, make comparisons between licensed premises whose business model is not identical. Comparisons can be widely or more narrowly drawn.

Off-licences, for example, whether they sell groceries or not, share a major defining characteristic, which is that they sell alcohol for consumption off the premises. This characteristic has a bearing on purchasing and drinking patterns and can be taken into account when assessing overprovision.

Licensing law affords licensing boards the discretion to make comparisons with a variety of differing business models if it is reasonable to do so.

3. Consult with the relevant persons

By law, boards must consult with the local licensing forum and the relevant health board. In addition, if the forum doesn't have representation from all the following groups, then the board must consult with someone who can represent their interests: holders of premises licences and personal licences; the chief constable; young people; and persons resident within the forum's area.

Note that it is the board's duty to identify localities that might be overprovided and then consult on them, rather than ask consultees to identify areas of overprovision (see Aldi Stores Ltd v Dundee Licensing Board, 2016).

4. Assess the information gathered from those persons, taking into account only relevant considerations and material which has a proper evidential base.

Section 2 sets out the role of evidence in supporting policy and decision-making.

5. Come to a decision as to whether it can be demonstrated that, having regard to the number, capacity and licensed hours of licensed premises or licensed premises of a particular description in a locality, it is undesirable to grant further licences, or further licences for premises of a particular description, on the grounds of overprovision.

6. Produce a statement in its published policy which meets the requirements set out in paragraph 35 of the [guidance](#)

How often should overprovision of licensed premises be assessed?

The statement on overprovision is part of a local licensing board's statement of licensing policy, which is renewed every four years, within 18 months following local government elections. A proactive assessment of the extent of overprovision within a licensing board area will therefore normally be conducted every four years.

What are the benefits of an effective overprovision policy?

If the board determines that evidence points to overprovision of licensed premises, or premises of a certain type, in an area, then a robust overprovision statement is important to guide the board's decision-making on individual applications. The potential benefits of an effective overprovision policy are set out below.

Enhanced community life

Greater availability of alcohol is linked to higher levels of crime, public nuisance and social disorder, all of which negatively impact the quality of life in local neighbourhoods. Controlling the number of licensed premises can help to improve the environment in which people live.

Improved health and wellbeing and reduced health inequalities

Health and health equity are important measures of the success of social policies. Across Scotland, however, people living in the most deprived areas are six times more likely to die an alcohol-related death than those living in the wealthiest areas.

Measures to restrict the availability of alcohol are amongst the most effective and cost-effective interventions for minimising alcohol-related harm. As part of an overall strategy, they can work to reduce health inequity and improve life chances.

Reduced drinking among children and young people

Tackling overprovision of alcohol outlets can help to reduce alcohol harm amongst children and adolescents. The number of licensed premises and proximity of alcohol outlets to where people live, particularly off-sales, is linked to risky drinking practices, especially amongst young adolescents.

Reduced costs and improved local productivity and economic performance

The cost of alcohol-related harm is estimated to be £3.6 billion per year. This includes an estimated £230 million of social care costs due to alcohol misuse; £727 million for alcohol-specific offences and crimes; a loss of £866 million to the Scottish economy's productive capacity due to presenteeism, absenteeism, unemployment and premature alcohol-related mortality and a cost of £267 million a year to the NHS in Scotland. Reducing alcohol-related harm through proven, effective alcohol policies can deliver substantial cost savings.



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SECTION 5

Resources

This resource provides sources of evidence relevant to each licensing objective. It is not intended as an exhaustive list and what else may be available locally should be considered. This table was produced in August 2017.

Licensing objective: Preventing Crime & Disorder

Published alcohol statistics

National statistics

- Two in five (41%) prisoners report being drunk at the time of their offence. ([Prisoner Survey 2015. Scottish Prison Service, 2015](#))
- Alcohol is implicated in 38% of homicide accusations. ([Homicide in Scotland 2014-15. Scottish Government, 2015](#))
- 54% of victims of violent crime thought the offender was under the influence of alcohol. ([Scottish Crime and Justice Survey 2014/15. Scottish Government, 2016](#))
- Three fifths (60%) of young offenders report being drunk at the time of their offence. ([Young People in Custody 2015. Scottish Prison Service, 2016](#))

Local statistics

[Recorded Crime in Scotland, 2015-16](#) includes offences recorded by the police, from Scotland, 2006-07 to 2015-16 including driving under the influence and drunkenness by local authority.

- Total number & percentage change over the last year: Tables 6 and 7
- Crimes and offences recorded in Scotland per 10,000 population, 2006-07 to 2015-16: Table 8

[The Scottish Crime and Justice Survey in 2014/15](#) includes some information available by police division and community justice area.

- Whether the offender(s) were under the influence of alcohol or drugs, pages 31-32, Table 14
- Whether respondents were victims of crime where either they or the offenders were under the influence of alcohol at the time, pages 57 & 58, Table 27

[The ScotPHO Online Profiles Tool \(OPT\)](#) includes data at ADP and health board level and allows for comparison between areas. Data available includes:

- Attempted murder and serious assault
- Common assault
- Vandalism
- Breach of the peace
- Perceptions of rowdy behaviour being common in neighbourhood

Local information available on request

More crime data are held locally than are available through centrally collated surveys. For more detailed and up-to-date information on alcohol-specific and alcohol-attributable crimes, [contact your local Alcohol and Drug Partnership](#).

Local police data may be available on:

- local incidents of anti-social behaviour
- the number of local cases of vandalism, breach of the peace, assault or anti-social behaviour, where alcohol has been flagged as being a contributory factor
- the percentage of reported domestic violence incidents in which alcohol was identified as a factor

Licensing objective: Securing Public Safety

Published alcohol statistics

National statistics

- In 2015-16 impairment due to suspected alcohol/drugs use was a contributory factor in 14% of accidental dwelling fires. ([Scottish Fire and Rescue Service 2015/16](#))

Local statistics

Statistics are provided by the [Scottish Fire & Rescue Service](#) by local authority area:

- Accidental dwelling fires where impairment due to suspected alcohol/drugs use was a contributory factor, 2009-10 to 2015-16, tables 21 and 21a.

Local information available on request

Incidents of anti-social behaviour and other types of public disorder linked to alcohol use may be available from Community Safety Partnerships or local police on request.

Licensing objective: Protecting & Improving Public Health

Published alcohol statistics

National Statistics

Information on alcohol-related ambulance call outs is available from the [Scottish Ambulance Service](#), reports that alcohol is involved in more than half of the incidents attended at weekends and that three quarters (76%) of verbal abuse against frontline staff involves alcohol.

- 1 in 4 people in Scotland (26%) drink at hazardous or harmful levels (defined as drinking more than 14 units per week). ([Scottish Health Survey 2015](#))
- There were almost 35,000 alcohol-related hospital stays in 2015/16. ([Alcohol-Related Hospital Statistics Scotland 2015/16](#))
- Across Scotland, alcohol-related hospital stays and deaths are higher in areas with higher alcohol outlet availability. Scottish neighbourhoods with the most alcohol outlets have double the alcohol-related death rate compared to those with the fewest outlets. ([CRESH, 2014](#))

Local statistics

The [CRESH webmap](#) maps alcohol outlet density for small neighbourhoods across Scotland. Alcohol-related death rates, lung cancer and lung disease death rates, and deprivation can also be mapped. Data is available to download for either the whole of Scotland or selected areas.

- Outlet density and harm profiles are available by local authority on the [Alcohol Focus Scotland](#) website.

The [ScotPHO Online Profiles Tool \(OPT\)](#) includes data at health board level on the following:

- Males exceeding weekly drinking limits
- Females exceeding weekly drinking limits
- Individuals exceeding weekly drinking limits
- Males binge drinking
- Females binge drinking
- Individuals binge drinking
- Males problem drinking
- Females problem drinking
- Individuals problem drinking
- Weekly drinkers (pupils age 15)
- Alcohol-related hospital stays
- Alcohol-related mortality

[ISD Scotland](#) provides data on alcohol-related hospital admissions by local authority and health board area:

- General acute, psychiatric and combined admissions by selected diagnoses, including acute intoxication and alcoholic liver disease
- Information down to health board level on alcohol brief interventions (ABIs)
- Historical statistics are available to assess long-term trends

National Records Scotland current and historic data at health board and local authority level.

- [Alcohol-related deaths](#) with historic data from 1979 onwards
- [Chronic liver disease](#) mortality data from 1982 onwards
- [Chronic liver disease](#) hospital stay rates by health board area from 1982 onwards

Local information available on request

Some local area data is available relating to alcohol-related ambulance call-outs through records of previous Freedom of Information requests to the [Scottish Ambulance Service](#) and more information may be available locally on request.

Some health boards operate systems to flag up alcohol attributable attendances at emergency departments. This information may be available on request.

Licensing objective: Preventing Public Nuisance

Published alcohol statistics

Some indicators of alcohol-related crime will be relevant for this objective as outlined on [page 28](#).

Local information available on request

Noise complaints relating to licensed premises may be available from local authority environmental health services.

Statistics on vandalism/graffiti/damage to property, rowdy behaviour, noisy neighbours/loud parties, rubbish/litter and the percentage of people who think 'alcohol abuse' is problem in their area may be available by local authority area from ADPs.

Licensing objective: Protecting Children and Young People from Harm

Published alcohol statistics

National statistics

- Parental alcohol misuse is a concern in 1 in 5 child protection cases in Scotland. ([Scottish Government, 2016](#))
- On average, 18 young people under the age of 20 are admitted to hospital each week because of alcohol. ([ISD Scotland, 2016](#))
- Up to 51,000 children are estimated to live with a problematic drinker. ([Scottish Government, 2012](#))
- Overall, 17% of 15 year olds reported drinking in the last week, of which 57% reported getting drunk. ([Scottish Government, 2016](#))

Local statistics

The 2013 [Scottish Schools Adolescent Lifestyle and Substance Use Survey](#) (SALSUS) reported the percentage of 13 and 15-year-olds drinking, the number of units and type of alcoholic drink consumed, sources of purchased alcohol, drinking location, and negative effects experienced of drinking in the last year by health board and local authority area.

[The ScotPHO Online Profiles Tool \(OPT\)](#) includes data on:

- Pupils aged 15 who are weekly drinkers (at health board and ADP level)
- Child protection with parental alcohol misuse (at health board and ADP level)

Local information available on request

Test-purchasing information on the number of premises that have been tested for the sale of alcohol to under 18s - and any failures - will be available from local Police Licensing Officers.

In some areas, statistics may be available from local social work departments on caseload numbers in which problematic alcohol use has been identified.

Statistics may be available locally on users of services who are responsible for a child/children. From April 2018, the Drug & Alcohol Information System (DAISy) will be recording alcohol clients from all services across Scotland. This means ADPs will be able to access information including children affected by parental substance misuse.

Other relevant evidence

Alcohol sales figures in Scotland including volumes of alcohol sold on/off-trade, litres consumed per head of population and price paid per unit are available from [MESAS](#).

Licensing statistics: Licensing boards have a duty to keep a public register containing information relating to name, type, and capacity of licensed premises available in their area. This should include broad categories of licence type. Information may be available on the board website or available on request.

Local authority profiles covering the financial costs of alcohol, local alcohol harm and local outlet density and harm are available from [Alcohol Focus Scotland](#).

Type of harm	Summary results and selected findings
<p>Violence</p>	<p>Research has found a consistent relationship between alcohol availability and violence:^{1 2}</p> <ul style="list-style-type: none"> • Bar density more strongly associated with rates of assault than restaurant density.³ • Late night trading hours associated with higher assault rates.^{4 5} • More violence linked to off-premises than on-premises in two studies.^{6 7} • Number of licensed premises linked to alcohol-related crime in Glasgow.⁸ • Closure of alcohol outlets linked to decrease in assault rates in a US city.⁹ • Cutting pub late night opening by two hours produced a large relative reduction in the rate of assaults in an Australian city.¹⁰ • Changes in walking outlet density associated with alcohol-related harms including violent crime in Wales. ¹¹ <p>In addition, local areas in England with more intense alcohol licensing policies had a stronger decline in rates of violent crimes, sexual crimes and public order offences in the period up to 2013. Reductions were to the order of 4-6% greater compared with areas where these policies were not in place. However, there were not similar reductions after 2013.¹²</p>
<p>Hospital attendances</p>	<ul style="list-style-type: none"> • Alcohol-related hospital admissions increased in London hospital after extension in licensed hours.¹³ • More off-sales premises in England linked to alcohol-related hospitalisations of under-18s.¹⁴ • Significant reduction in the number of night-time injury-related hospital emergency department presentations at high-alcohol risk times found following the introduction of regulatory licensing conditions in a town in Australia.¹⁵ • Changes in walking outlet density associated hospital admissions in Wales.¹¹ • Reduction in off-license hours associated with a significant decrease in hospital admissions for acute intoxication among adolescents and young adults in a Swiss city. ¹⁶ • Across the whole of Scotland, alcohol-related hospitalisation rates significantly higher in neighbourhoods with the most alcohol outlets.¹⁷ • In England, local licensing policies appear to be associated with a reduction in alcohol-related hospital admissions in areas with more intense licensing policies.¹⁸

Type of harm	Summary results and selected findings
Underage drinking	<ul style="list-style-type: none"> Outlet density found to be a significant factor in the prevalence of teenage high-risk drinking. ^{14,16,19, 20,21} Adolescents in Scotland living close to an off-sales outlet and adolescents living in areas with many nearby off-premises outlets more likely to drink frequently.²²
Property crime/ damage	<ul style="list-style-type: none"> People living closer to alcohol outlets in high density areas are more likely to report damage to property. ^{1 (3 studies)}
Car crashes/ injuries/ fatalities	<ul style="list-style-type: none"> Traffic incidents linked to increased outlet density and hours of sale.^{1 (6 studies)} Alcohol-involved pedestrian collisions significantly and positively related to number of on-sales per kilometre of road in US city.²³
Deprivation	<ul style="list-style-type: none"> Relationship between neighbourhood deprivation and off-sales alcohol outlets in Scotland, with the most deprived quintile of neighbourhoods having the highest outlet densities.²⁴
Drink driving	<ul style="list-style-type: none"> Self-reported driving after drinking goes up with increased outlet density.¹ 10% increase in outlet density associated with 3% increase in drink driving incidents in US state.²⁵
Child maltreatment and neglect	<ul style="list-style-type: none"> Areas with more bars found to have higher rates of child maltreatment.^{1 (2 studies)}
Domestic violence	<ul style="list-style-type: none"> Domestic violence increases as the number of premises selling alcohol goes up.^{26,27} Total alcohol outlet density and off-premise alcohol outlet density associated with intimate partner violence. ^{28,29}
Murder	<ul style="list-style-type: none"> A significant positive relationship found between murder rates and alcohol outlet density.¹
Mortality	<ul style="list-style-type: none"> Increase in alcohol outlets over five-year period associated with rising alcohol consumption and a 27% increase in the alcohol mortality rate.^{30,31} Across the whole of Scotland, neighbourhoods with higher numbers of alcohol outlets had significantly higher alcohol-related death rates (34 alcohol-related deaths per 100,000 people in neighbourhoods with the most off-sales outlets, compared with 13 per 100,000 in neighbourhoods with the fewest).¹⁷
Suicide	<ul style="list-style-type: none"> Significant association found between suicide and outlet density.¹
Sexually-transmitted disease	<ul style="list-style-type: none"> Decrease of one alcohol outlet per mile of roadway associated with 21 fewer cases of gonorrhoea per 100,000 people.³²

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The information in this resource outlines interventions that licensing boards can implement through their policy and overprovision statements to promote the licensing objectives and control the overall availability of alcohol in the local area.

The Licensing (Scotland) Act 2005 gives licensing boards the flexibility to supplement mandatory license conditions with local conditions to deal with local issues or circumstances. These conditions can be imposed when granting a new premises licence or variation, or reviewing a premises licence. The same is true for overprovision. Though boards must follow the process set out in the guidance when assessing overprovision in their local area, they have flexibility when deciding what the appropriate local response is to addressing availability.

“Flexibility to deal with local circumstances is a vital component of the new licensing regime.”
Licensing (Scotland) Act 2005 Guidance

Conditions imposed by a licensing board can either be included as standard within the board’s licensing policy statement, or can be ad-hoc based on the particular circumstances of an individual application. If standard conditions are developed as part of a licensing policy statement, it will be for the applicant to demonstrate why the condition should not be imposed, whereas in the case of ad-hoc conditions, the onus is on the Board to show why a condition would be necessary or expedient. Either way, an evidence base is required for conditions.

It should be noted that boards may not impose a condition which relates to a matter which is regulated under another enactment, such as planning, building control or food hygiene (see *Brightcrew Limited v The City of Glasgow Licensing Board*, 2011).

Managing the overall availability of alcohol
Rationale
Drinking patterns and problems are influenced by how easy or convenient alcohol is to obtain. Evidence demonstrates that restricting physical access to alcohol works to prevent and reduce many acute and long-term problems linked to alcohol consumption. For evidence on alcohol availability and harm see Resource 2 in Section 5.
Policy options
<ul style="list-style-type: none"> • Restricting licensed hours • Restricting the number, type and capacity of licensed premises

Managing the operating conditions of licensed premises

Rationale

Targeted measures to modify the retail environment where alcohol is sold or consumed can work to reduce specific types of alcohol harm, particularly those linked to intoxication.

Policy options - on-sales

Risky operating conditions in on-sales premises include crowding; high percentage of customers standing; untidiness; dull lighting; dirty drinking glasses; high noise levels; type and speed of music; underage customers; and hostile or unfriendly staff and door stewards.

- Conditions relating to securing public safety could include a curfew on entry to nightclubs; the promotion of food; calling last orders in plenty of time; managing the exit of patrons; requiring minimum lighting levels; requiring the use of plastic glasses after certain hours; and requiring that outdoor tables are regularly cleared of crockery and glasses.
- Conditions relating to prevent crime and disorder could include requiring door searches; regular drugs checks; and notice board warnings related to drugs and offensive weapons.
- Conditions relating to the protection of children and young people could include requiring children in licensed premises to remain under the supervision of an adult; not allowing children in rooms where there is a bar counter; and not allowing children to sit at the bar counter.
- Conditions relating to preventing public nuisance could include noise conditions on outside areas; requiring the consumption of alcohol in outside areas to cease after certain hours; and requiring live music to cease at a certain time.
- Conditions relating to protecting and improving public health could include requiring premises to only sell alcohol to those taking table meals and requiring premises open after a certain time to have food available.

Policy options – off-sales

- Conditions could include requiring a Personal Licence Holder to be personally present on the premises between specific times.
- Conditions relating to crime and disorder and securing public safety could include the maintenance of a refusal register to be provided on request to relevant licensing authorities and CCTV coverage.

Top tips before you start

Be clear about what the policy statement is for

- Licensing policy covers the principles or course of action that a licensing board will adopt to promote the licensing objectives. The statement should provide a rationale for the board's approach, linking the evidence to the action and the action to the objectives.
- The policy statement is concerned with how a licensing board exercises its discretionary power. **It should not simply be a reiteration of the law, regulation, or guidance.**
- The purpose of the statement is not to include detail of the administrative processes and licensing board procedures that are used to implement policy. This information can be made publicly available on the licensing pages of the local authority website.

Presentation and readability

- Policy statements should be easily understood by all licensing stakeholders. This includes members of the public without technical expertise.
- **Writing in plain, accessible language** will facilitate the involvement of a wide range of stakeholders with the licensing process.

1. Include introductory contextual information

- Introductory contextual paragraphs, outlined in (a) and (b) below, will help consultees of the draft policy statement to assess whether the proposed policy measures are appropriate, proportionate or likely to be effective in achieving the licensing objectives.

(a) Overview of alcohol-related harm in the licensing board area, relevant to the licensing objectives

- Provide a summary of evidence that has been gathered by, or on behalf of, the licensing board on alcohol-related harm in the area.
- This evidence should relate to the licensing objectives.
- Evidence should include:
 - o published alcohol statistics;
 - o information from local agencies;
 - o the findings of citizen's panel surveys and testimonies from local people on impact of alcohol availability on problems in the area; and
 - o the experience and knowledge of licensing board members.

[See Section 2](#) of this toolkit for more information on using evidence to support policy and decision-making in licensing.

(b) An overview of the current licensing situation in the board area

- Provide information on:
 - o how many premises licences are currently in force;
 - o how many licences of a particular type are in force (supermarkets, convenience stores, pubs, clubs, restaurants, etc.);
 - o how many new premises licences issued under the previous policy statement;
 - o how many occasional licences granted under the previous policy statement;
 - o how many extensions in capacity or licensed hours granted under the previous policy statement;
 - o how many variations in licences granted and what for;
 - o any test purchasing carried out; and
 - o licence reviews undertaken.

2. Licensing objectives

- For each licensing objective, specify the measures the licensing board will implement to promote the objective and the rationale for implementing those measures. Refer to the supporting evidence that has been gathered in relation to each objective.

3. Licensing hours

- Specify the licensing board's policy on licensed hours. The law states the maximum off-sales hours, and the guidance suggests what is reasonable in terms of on-sales hours. It is important to note that a licensing board can impose more restricted licensed hours to promote the licensing objectives within its area and in response to the views of the local community.

4. Occasional licences

- Set out the licensing board's general approach to occasional licence applications, such as the type of event that will or will not be licensed.
- There should be a recognition that occasional licences add to the availability of alcohol in an area and may impact on the licensing objectives.
- For information on the evidence on alcohol harm and availability, [see Resource 2](#).

5. Overprovision

- The policy statement must include a statement on the extent to which a licensing board considers there is overprovision of licensed premises or licensed premises of a particular description in any locality within the board's area.
- For detailed information on assessing overprovision, [see Section 4](#) of this toolkit.

6. Relationship to other strategies

- Scottish Government guidance recommends that the policy statement shows how it relates to other local and national alcohol strategies.
- This should include the local authority's vision, Local Outcome Improvement Plans, Locality Plans and the Scottish Government's alcohol strategy, as well as any other relevant local and national strategies.
- Statements of licensing policy should be circulated widely to ensure policy coherence within the local authority, including between licensing, planning and economic development committees, and with other local agencies, such as health and law enforcement.

7. Evaluation

- Set out how the licensing board will evaluate the effectiveness of its policy in achieving the licensing objectives. Identify the outcomes and indicators of success that will be used to evaluate effectiveness.

8. Appendix

- Further detail of the evidence used to develop the policy statement can be provided in an appendix. It is also suggested that a list of mandatory and local licence conditions be appended to the statement. This will help consultees of the draft policy to understand what measures are already in force and the scope for further action.



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